



CITY OF MILWAUKEE
DEPARTMENT OF EMPLOYEE RELATIONS
Mandatory Furlough Policy and Administrative Guidelines

Department of Employee Relations
April 4, 2012

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BACKGROUND AND GENERAL INFORMATION

Local governments throughout the nation, including the City of Milwaukee, are experiencing severe budget shortfalls. The City of Milwaukee's Budget has experienced an ongoing imbalance between the increased annual costs of continuing baseline services and the lack of revenue growth to fund these services.

Mandatory furloughs for city employees and officials (including public officials appointed pursuant to section 62.51 of the state statutes, the Mayor, the members of the Common Council, and other elected officials) have been implemented to address the aforementioned fiscal challenges. This manual is intended to provide guidance to City managers, human resources practitioners and payroll staff in implementing mandatory furloughs. This manual will be revised and updated as necessary. Such changes may include the incorporation of new policy direction, City of Milwaukee Ordinances or state and federal law.

The following assumptions were made in preparing this Policy/Guidance document:

- Applicable provisions of the Milwaukee Code of Ordinances Chapter 350, City Charter, and Rules of the Employee Retirement System Board as amended must be followed.
- Mandatory furloughs apply to all furlough-eligible positions pursuant to guidelines developed by the Department of Employee Relations and the Department of Administration-Budget and Management Division.
- Employees will not be allowed to substitute paid leave for mandatory furloughs..
- The number and type of positions identified under each "furlough eligibility" category is subject to change based on business need and service delivery considerations in place during a mandatory furlough week.

DEFINITIONS

Cabinet Departments – departments under the direction of a public official appointed by the Mayor per provisions 62.51 of the Wisconsin State Statutes.

Non-Cabinet Departments – City Clerk's Office, City Attorney, City Treasurer, Comptroller, Municipal Court, Employee's Retirement System.

Protective Service Departments – the Milwaukee Police and Fire Departments.

Creditable Service – membership service for which credit is allowed under the City Charter for retirement purposes. The Pension Board determines how much service in any years is equivalent to one year of creditable service.

FLSA-Exempt Employee – an individual designated by DER as being employed as bona fide executive, administrative, professional or computer employees, as defined by the Fair Labor Standards Act (FLSA). FLSA-exempt employees are paid on a “salary basis”. This requires that the exempt employee receive his or her entire salary for any work week in which he or she performs any work.

FLSA-Non-Exempt Employee – an employee who is entitled to be paid for all actual hours that he/she is required or permitted to work, including overtime hours.

Furlough-Eligible – an employee or group of employees who occupy positions that have been identified as furlough-eligible and who are subject to mandatory furlough provisions applicable to his/her respective department and/or applicable MOU’s between the City and its labor unions.

Furlough-Eligible/Must Report – an employee or group of employees who occupy positions that have been identified as furlough-eligible and who would normally be furloughed on the designated City mandatory furlough days, but are required to work because of business necessity. Employees who are furlough-eligible/must report will be required to serve the applicable number of mandatory furlough days in increments of 8 hours to be scheduled in a manner to be determined by the department head throughout the fiscal year.

Furlough-Ineligible – a position with assigned duties that must be performed on the scheduled mandatory furlough days. Employees occupying such positions are subject to working on the scheduled mandatory furlough days. Employees working in a mandatory furlough-ineligible position are not required to make up mandatory furlough days. These positions are identified taking into account public safety concerns, areas impacted by a significant staffing shortage, and/or other service delivery considerations.

I. APPLICABILITY

All city officials and most employees will be subject to mandatory furloughs as specified under 350-100 and 350-116 of the Milwaukee Code of Ordinances. The Department of Employee Relations and the Budget and Management Division are responsible for developing furlough operational details and policy guidelines necessary to administer the implementation of mandatory furloughs.

The implementation of mandatory furloughs across City departments is delineated below:

- 1.1 **CABINET DEPARTMENTS:** will comply with the mandatory furloughs scheduled per Common Council action. However, some employees staffing key functions will be required to work during the established furlough days but will be scheduled for mandatory furlough days as determined by the department head throughout the fiscal year.
- 1.2 **NON-CABINET DEPARTMENTS:** retain the flexibility of determining when employees will be furloughed. This includes implementing a different mandatory furlough schedule for the entire department or staggering delayed mandatory furlough days for furlough-eligible employees. The mandatory furloughs must, however, be implemented in 8-hour increments before the end of the fiscal year.
- 1.3 **PROTECTIVE SERVICE DEPARTMENTS:** Furloughs within the Fire and Police Departments are to be scheduled if applicable in a manner designed to minimize the disruption to department operations and consistent with Common Council and Fire and Police Commission action. .

II. PAY AND SALARY CONSIDERATIONS

2.1 Overtime and Compensatory Time

The terms and conditions describing overtime and compensatory time contained in the Milwaukee Code of Ordinances will apply. Mandatory furloughs will count as hours worked..

2.2 Working Additional Hours to Offset Loss of Pay

Overtime is not permitted for the purpose of making up mandatory furlough time. Making up mandatory furlough days does not achieve the savings expected with the implementation of this initiative.

2.3 Salary Anniversary Date/Salary Advancement Date

Will not be changed or adjusted as a result of the mandatory furlough. In determining the completion of each year of service, mandatory furlough time shall be regarded as being regularly at work and shall not count against salary advancement. Absences from work due to mandatory furloughs will not defer salary advancement under Part II, Section 2 of the Salary Ordinance.

III. BENEFIT CONSIDERATIONS

3.1 Benefits Service Date

An employee's benefits service date shall not be changed due to mandatory furlough days.

3.2 Health and Dental Insurance

Health and dental insurance benefits will be unaffected by the mandatory furloughs.

3.3 Holiday Pay

Employees on mandatory furlough shall be regarded as being regularly at work for purposes of Holiday Pay eligibility.

3.4 Life Insurance

Because the life insurance benefit amount is determined by base salary rates, and not actual wages paid, mandatory furloughs will not change the amount of the benefit. For determining group life insurance eligibility, mandatory furlough time shall be considered as time of active service on the payroll.

3.5 Long-Term Disability

Long-term disability benefits are based on the earnings in effect on an employee's last full day of work and are defined as the employee's average monthly rate of earnings during the preceding 12 calendar months or during the employee's period of employment of less than 12 calendar months. Mandatory furloughs will have no effect on the amount of a long-term disability benefit.

3.6 Retirement Benefits

Mandatory furlough time does not reduce a member's service credit or the member's final average salary.

3.7 Call-in/Show-Up Pay

Call-in/Show-Up Pay will be administered in accordance with Part II of the Salary Ordinance.

- 3.8 Recall Allowance (Fire Department)
An employee who separates from active service during a calendar year on account of voluntary resignation or normal service retirement shall receive recall pay prorated on the basis of active service during such calendar year, computed to the nearest month. In calculating the recall allowance, mandatory furlough time shall be considered as time of active service.
- 3.9 Sick Leave Accrual
An employee's eligibility to accrue sick leave will not be affected by the implementation of the mandatory furloughs.
- 3.10 Sick Leave Incentive
An employee's eligibility for a sick leave incentive control day or pay will not be affected by the implementation of mandatory furloughs.
- 3.11 Sick Leave Pay
Employees may not substitute paid sick leave for mandatory furlough days. Mandatory furlough days are not paid regardless of whether the benefits-eligible employee was on sick leave the day before, the day after, or on both sides of the mandatory furlough day. However, sick leave that is being used for absences related to a Worker's Compensation injury where the employee is still in a healing period will be provided by the City as paid leave for mandatory furlough days, but the employee will be required to observe alternate mandatory furlough day(s) upon return to service.
- 3.12 Travel and Training
Employees directed to attend a training or other educational meeting or program on a mandatory furlough day will be permitted to attend and will be paid for the hours attended. The balance of the furlough hours due will be scheduled in a manner determined by the department head.
- 3.13 Tuition Benefit
All courses for which tuition benefit has been approved during a mandatory furlough day must be attended on the employee's own time.
- 3.14 Unemployment Insurance
Eligibility for unemployment insurance benefits is determined by the state's Unemployment Compensation Division. In general, under the State of Wisconsin Unemployment Compensation Act (Wisconsin State Statute §§108.05(3)), partial unemployment benefits are sometimes payable to employees during periods of time when their hours are reduced. The partial unemployment compensation benefit associated with an eight-hour furlough is zero for employees whose annualized base period wages fall somewhere between \$35,000 and \$40,000, and remains zero for all employees making more than that amount.
- 3.15 Uniform and Clothing Allowance
Time spent on mandatory furloughs will not count against an employee's eligibility for uniform and clothing allowance.
- 3.16 Vacation
In calculating vacation eligibility and accrual, mandatory furlough time shall be considered as time of active service. Vacation days may not be substituted for furlough days.
- 3.17 Variable Shift Assignment Pay (Police Department)
In determining whether an employee is covered by this section for any given month the time of mandatory furlough shall be considered as time of active service.

3.18 Worker's Compensation/Injury Pay/Sick Leave in lieu of Injury Pay

Under Wisconsin's Worker's Compensation Law, the City must pay temporary disability benefits for the period of time during which an employee is within the healing period for a work-related injury and sustains an actual wage loss. By ordinance, the City pays injury pay "in lieu of" temporary disability benefits payable under Worker's Compensation. The City is required to pay temporary disability benefits or injury pay benefits for specified mandatory furlough days if the employee is entitled to temporary disability benefits under the Worker's Compensation Act. Also, in situations where the employee has exhausted injury pay benefits, the employee will be allowed to use paid sick leave for specified mandatory furlough days that occur during the employee's healing period. These employees will be required to observe alternate mandatory furlough day(s) when they return to service.

IV. HOURS OF WORK /ALTERNATIVE WORK SCHEDULE CONSIDERATIONS

4.1 Alternative Work Schedules (AWS)

Individuals working an alternative workweek whose schedule calls for reduced hours on a normally scheduled, mandatory furlough day, have the same mandatory furlough requirements as all other employees. Employees shall revert back to a regular 5-day, 8 hrs/day work week for the week involving a mandatory furlough. Employees working an alternative work schedule who have a normal day off on a scheduled furlough day must observe an alternative mandatory furlough day.

4.2 Part-time Employment

Part-time employees will observe the mandatory furlough time on a prorated basis according to their Full Time Equivalent (FTE) status.

Part-time employees scheduled to work 8 hours on a mandatory furlough day: The employee will be furloughed the number of hours equivalent to their FTE status. The balance of hours that would have been scheduled on that day can be made up at a later time to be scheduled at the department's discretion before the end of the fiscal year.

Part-time employees NOT scheduled to work on a mandatory furlough day: The employee will observe a furlough day on an alternate date. The number of hours furloughed will be the equivalent to their full time FTE hours. This mandatory furlough date will be scheduled at the department's discretion before the end of the fiscal year.

4.3 FLSA-Exempt Employees

Employees excluded from the provision of s. 350-5 of the Milwaukee Code of Ordinances (Exclusion from Overtime) shall be temporarily limited to working 8 hours per day during the week of a mandatory furlough unless specifically authorized by the Department Head.

V. ADMINISTRATION OF LEAVE BENEFITS

General Rule Employees may not use paid leave during mandatory furlough periods..

5.1 FMLA

Mandatory furlough days do not require an employee to take leave under the FMLA because there is no work-duty from which leave is needed. Mandatory furlough days do not impact an employee's benefits or job assignment, therefore, employees on FMLA, with paid substitution, will observe the mandatory furlough days during their FMLA leave. However, employees may

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be able to extend their FMLA leave by the number of mandatory furlough days they are required to take during their FMLA leave.

Whether an employee's FMLA leave would be extended is dependent on the individual employee's specific circumstances. Therefore, it is recommended that should this situation occur; please contact the City Attorney's Office with questions.

Mandatory furlough days are considered to be regular days off and should not be counted when calculating leave eligibility. For example, when calculating whether the employee worked 1,250 hours in the previous 12 months under FMLA, mandatory furlough days are not counted as earned hours or days worked. In contrast, when calculating whether the employee has been employed by the City for at least 12 months, a week in which a mandatory furlough occurs would be counted as one week of service.

5.2 Funeral leave

Employees eligible for funeral leave during a mandatory furlough day will follow the provisions as set forth in Chapter 350, Subsection 4, "Leaves of Absence" of the City of Milwaukee Code of Ordinances. Employees taking Funeral Leave that falls on a mandatory furlough day will be required to take the mandatory furlough day at a later date to be scheduled in a manner determined by the department head in increments of 8 hours.

5.3 Jury Duty/Court Subpoena

If an employee is called to Jury Duty on a mandatory furlough day, the employee will not be paid by the City of Milwaukee for that day. Since the mandatory furlough day is considered an unpaid day, the employee will be allowed to accept the jury duty pay provided by the court during any designated mandatory furlough day. In addition, employees who are under a subpoena to appear in court during a mandatory furlough day will be allowed to keep compensation received for appearing, but will not receive City pay for that day.

5.4 Military Leave of Absence

Leaves of Absence for Military Training and Civil Disturbances (Short Term Military Leave) – Employees who are on a short term military leave for training or civil disturbance during a mandatory furlough day or period will receive compensation in accordance with Chapter 350-36 and applicable labor contracts. The employee will be required to take a delayed, mandatory furlough day upon return from short term military leave to be approved in a manner determined by the department head.

Military Leave of Absence (Long Term Military Leave) – Employees who are on a long term military leave during a mandatory furlough day or period will not be required to take a delayed, mandatory furlough day upon return from military leave.

5.5 Military Funerals

Employees who are eligible to take a leave of absence to attend military funerals will be compensated in accordance with Chapter 350-36 and applicable labor contracts if they take a leave of absence on a mandatory furlough day to attend a military funeral. Such employees will be required to take a delayed, mandatory furlough day to be approved in a manner determined by the department head.

5.6 Military Induction Examinations

Employees who are required to take military induction examinations during a mandatory furlough day will be paid in accordance with Chapter 350-36 and applicable labor contracts. Such

employees will be required to take a delayed, mandatory furlough day to be approved in a manner determined by the department head.

5.7 Leave accrual dates

A mandatory furlough does not impact leave accrual dates.

5.8 Return from authorized Layoff or Leave

The intent to not reduce the pay rate or range of any officer or employee or of any officer or employee returning to City service from a duly authorized layoff or leave of absence is subject to the terms of a mandatory furlough.

5.9 Unpaid Leave of Absence

If an employee is already in an unpaid leave status at the time they are designated for mandatory furlough, they will not have to take an alternative mandatory furlough date unless the furlough action is extended beyond their return date.

VI. RECORDKEEPING AND PAYROLL CONSIDERATIONS

6.1 FLSA Requirements

Accurate time records must be kept for all employees during any week in which such employees receive a mandatory furlough day because all employees are deemed to be non-exempt employees during this week. During any week in which an employee who would otherwise be exempt from the overtime provisions of the FLSA receives a mandatory furlough day, the employee is deemed under FLSA regulations to lose his or her exempt status and would, therefore, be entitled to overtime if he or she works more than 40 hours in the week. Under the FLSA, an accurate record must be kept for all hours worked in a work week by all FLSA non-exempt employees. Accordingly, such records must be kept for otherwise exempt employees during any work week in which they receive a mandatory furlough day. The records to be kept for such employees, and all other non-exempt employees as well, during weeks in which they receive a mandatory furlough day are described below.

Records-keeping for all employees during work weeks in which they receive a mandatory furlough day. Record-keeping requirements for employees during work weeks in which a mandatory furlough day is taken differ slightly from the requirements during non-furlough weeks. During a work week in which a mandatory furlough is taken, mandatory furlough hours must be recorded on the time-entry system under the pay code FRL. In addition, during any week in which an employee receives a mandatory furlough day, the employee must also record all time (paid and unpaid) for the week on a paper time reporting form, which will be made available to payroll clerks and on the MINT.

6.2 Record Retention Requirements

All time records for otherwise exempt employees during mandatory furlough weeks should be retained by payroll personnel for at least three years.

VII. GENERAL CONSIDERATIONS

7.1 Administrative hearings

Employees scheduled to attend administrative hearings will be compensated for their time but will be subject to a delayed mandatory furlough to be scheduled in a manner determined by the department head.

- 7.2 Disciplinary Suspensions
Employees may not count unpaid suspensions imposed for disciplinary reasons as a mandatory furlough day.
- 7.3 Emergency Procedures
In those cases where an emergency call out occurs on a mandatory furlough day or during a mandatory furlough week, employees may be called back to work. Such employees are compensated in accordance with standard compensation procedures and applicable collective bargaining agreements.
- 7.5 Non-Scheduled Call Back
Employees in a Furlough-eligible position may be called back to work on a designated mandatory furlough day even though they were not on call or on standby and did not necessarily expect to be called back to work. If, due to an emergency, an employee in a furlough-eligible or furlough eligible/direct report position is called back to work on a designated mandatory furlough day, the employee will compensated in accordance with standard compensation procedures. The employee will not be subject to delayed, mandatory furlough time.
- 7.6 Probationary Period
With the implementation of mandatory furloughs, probationary periods will not change.
- 7.7 Seniority Date
Mandatory furloughs do not constitute a break in service; therefore, there will be no adjustment to an employee's seniority date.
- 7.8 Volunteer Work
Furlough-eligible employees may not volunteer to do what the City otherwise pays them to do on a scheduled mandatory furlough day.

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